

1. An area that seems weak to me is the requirement under 40 CFR 145.23(f)(7) that the program include “a description of and schedule for the State’s program to establish and maintain a current inventory of injection wells which must be permitted under State law.” I am not finding that in the program description. It seems that this would be important.
2. Fix references to the 7520 forms in program description and MOA
3. The public participation in the enforcement process has no discussion of this in the program description (which is what the MOA said they would follow). Was not able to find anything about public participation in enforcement in NDCC 38-22 or NDAC 43-05. As 40 CFR 145.13(d) requires public participation. Did not see anything about public notice requirements for settlements. Also, the MOA says that NDIC has criminal remedy authority as outlined in NDCC 38-22-18. My reading of this section applies to civil penalties only. I don’t see anything about criminal enforcement authority in the state regs.
4. Under section V. Enforcement in the MOA, I think the second paragraph should be updated. The last sentence currently reads, “Failure by the Commission to initiate appropriate enforcement action against a substantive violation may be the basis for EPA’s determination that the Commission has failed to take timely enforcement action.” It could be updated to say: “Failure by the Commission to initiate appropriate enforcement action against a substantive violation may result in EPA’s issuance of an administrative or civil action as outlined in SDWA section 300h-2.” We could include that here, or somewhere else in the MOA. Additional language can be found in 40 CFR 145.21(f).
5. 40 CFR 145.25(b)(4)(i), which states, “The Regional Administrator will normally notify the State at least 7 days before any such inspection,